

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

STANFORD COPLEY AND SUSAN COPLEY,

Civil Action No.

Plaintiffs,

-against-

NOTICE OF REMOVAL

THE ALLSTATE INDEMNITY COMPANY,

Defendant.

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 and Local Civil Rule 81.1, Defendant Allstate Indemnity Company (improperly pled as “The Allstate Indemnity Company”) (“Defendant” or “Allstate”) hereby gives notice of removal of the above-captioned action, which was commenced by the filing of a summons and complaint by Plaintiffs Stanford Copley and Susan Copley (collectively, “Plaintiffs”) in the Supreme Court of the State of New York, County of Erie, on January 29, 2016, under Index No. 800935/2016 (“the State Court Action”), to the United States District Court for the Western District of New York. In support of removal, Allstate states as follows:

1. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) in that it is being filed within thirty (30) days of the date on which Defendant received a copy of the Summons and Complaint, on February 18, 2016.

2. Copies of the Summons and Complaint filed in the State Court Action are attached hereto as **Tabs 1 and 2**, respectively, of **Exhibit A**.

3. The United States District Court for the Western District of New York has original jurisdiction over the State Court Action based upon diversity of citizenship 28 U.S.C. § 1332(a)(1), and, accordingly, removal is proper under 28 U.S.C. § 1441(b), as set forth below.

Diversity of Citizenship

4. Upon information and belief, at the time Plaintiffs commenced the State Court Action and at the time of removal, Plaintiffs were and are citizens of the State of New York, Erie County, residing at 117 Ruskin Road, Amherst, New York. *See* Ex. A, Tab 2 [Complaint ¶ 7].

5. At the time Plaintiffs commenced the State Court Action and at the time of removal, Defendant Allstate was and is a company organized and existing pursuant to the laws of the State of Illinois, with its principal place of business at 2775 Sanders Road, Northbrook, Illinois 60062.

6. This Court has diversity jurisdiction over the State Court Action because there is complete diversity between Plaintiffs and Defendant and because the amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs.

Amount in Controversy

7. With respect to the amount in controversy, satisfaction of the jurisdictional threshold is apparent on the face of the Complaint. The aforesaid Complaint alleges claims for breach of contract against Defendant for failing to pay Plaintiffs in full for property damage to their residence. Ex. A, Tab 2 [Complaint ¶¶ 100-126]. Plaintiffs seek relief for amounts in excess of \$15,000 on the First Cause of Action, in excess of \$30,000 for the Second Cause of Action, and in excess of \$75,277.05 on the Third Cause of Action. *Id.* at p.22. Accordingly, this Court has diversity jurisdiction over the State Court Action.

8. The United States District Court for the Western District of New York embraces the place, Erie County, New York, where the State Court Action was filed. Based upon diversity of citizenship, the State Court Action is hereby removed to the United States District Court for the Western District of New York as the district court having jurisdiction over the place where the action is pending, pursuant to 28 U.S.C.A. § 1332 and 28 U.S.C.A. § 1441(b).

Removal Procedures

9. Defendants have complied with the requirements of Local Rule of Civil Procedure 81 by: (i) completing a civil cover sheet; (ii) submitting the required \$400.00 filing fee; and (iii) attaching an index identifying all documents filed in the State Court Action, individually tabbed and arranged in chronological order according to the State Court Action filing date. *See* Ex. A.

10. A copy of the written notice required by 28 U.S.C. § 1446(d), addressed to the Plaintiffs and the Clerk of the Supreme Court of the State of New York, Erie County, is attached as **Exhibit B** and will be filed with the Supreme Court for Erie County and served on the Plaintiffs after the filing of this Notice of Removal.

11. This Notice of Removal has been signed pursuant to Fed. R. Civ. P. 11.

12. By filing this Notice of Removal, Allstate does not waive any available defenses. Should any questions arise as to the propriety of the removal of this action, Allstate requests the opportunity to brief any disputed issues and to present oral argument in support of its position.

WHEREFORE, Allstate Indemnity Company respectfully requests that all persons take notice that the State Court Action, presently pending in the Supreme Court of the State of New York, County of Erie, has been removed to the United States District Court for the Western District of New York.

Dated: March 7, 2016

WONG FLEMING, P.C.
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